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Committee on Economic, Social and Cultural Rights

Fifty-ninth session

Summary record of the 53rd meeting

Held at the Palais des Nations, Geneva, on Tuesday, 20 September 2016, at 3 p.m.

Chair: Mr. Sadi

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The meeting was called to order at 3.05 p.m.

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Sixth periodic report of Cyprus (E/C.12/CYP/6; E/C.12/CYP/Q/6 and Add.1)

1. *At the invitation of the Chair, the delegation of Cyprus took places at the Committee table.*

2. **Ms. Koursoumba** (Cyprus), introducing the sixth periodic report of Cyprus, said that the information contained in her presentation had been provided by the competent departments of the Government of Cyprus, by the Attorney-General's Office and by independent national monitoring mechanisms, and aimed to respond to previous concluding observations of the Committee.

3. Cyprus had a democratic system of government, with an independent judiciary and a strictly enforced separation of powers, and attached great importance to human rights. The Constitution incorporated an extensive bill of rights, including those enshrined in instruments adopted under the auspices of international and regional organizations. The Government also cooperated closely with the United Nations human rights treaty bodies and submitted reports on the measures it had taken to implement the rights and freedoms established in international instruments.

4. The Government had enacted or was in the process of enacting legislation and had transposed European Union directives into its national laws with a view to improving the country's migration and anti-trafficking policy. The country had successfully implemented the macroeconomic adjustment programme agreed with the European Commission, the European Central Bank and the International Monetary Fund, while managing to prevent negative consequences for its citizens. The economy had stabilized and emerged from recession, and was posting satisfactory growth rates. Nevertheless, continued reforms and prudent financial management were still required, alongside efforts to boost the comparative advantages of the Cypriot economy. Falling unemployment in 2016 was expected to translate into positive socioeconomic indicators.

5. Legislation establishing a guaranteed minimum income had been passed in July 2014, with a view to strengthening the protection of vulnerable households and ensuring minimum living standards for those with limited financial resources to meet their basic needs. Those needs were calculated on the basis of a specifically created minimum consumption basket that included food, clothing, personal care, health, communications, transport, household costs and social inclusion costs. The guaranteed minimum income could be claimed by all Cypriot or European Union nationals, whether employed, self-employed or unemployed, provided they had legally resided in Cyprus for at least five years prior to submitting their application. Children with disabilities were also entitled to the benefit, which was expected to significantly reduce absolute poverty rates.

6. Under the circumstances specified by law, free legal aid was granted to asylum seekers and beneficiaries of international protection, as well as to the victims of trafficking, sexual abuse and exploitation and child pornography. It was also available in civil and criminal proceedings for violations of the human rights set forth in the Covenant, as well as in family court proceedings, cases concerning the sale of mortgaged property, cross-border disputes and other cases. Legal aid covered legal advice, the preparation of procedural documents, and representation in court.

7. Cyprus was in the process of evaluating its National Action Plan Against Trafficking in Human Beings 2013-2015 and had renewed the plan for the period 2016-2018, including actions in several strategic areas. The Government planned to amend current legislation and devise measures and campaigns to combat trafficking for the purposes of labour exploitation, sexual exploitation and marriages of convenience, and to train officers and judges to enforce the legislation.

8. In the area of non-discrimination and gender equality, a police policy statement for the prevention of discrimination and racist crime had been drafted in 2013, with an emphasis on developing proactive deterrent action, victim support and protection, and more effective intervention and investigation measures. The police had implemented capacity-building measures to identify and deal with hate crime and hate speech, in cooperation with the Office of the Commissioner for Administration and Human Rights (Ombudsman), the University of Cyprus and human rights NGOs. A national certification body had been established in April 2014 to evaluate enterprises on the implementation of best practices related to the principles of equal treatment and equal pay in the working environment. Although that programme had since concluded, the National Certification Body would continue to evaluate enterprises and to certify them as "equality employers". Women's participation in the labour market had been promoted through the Maternity Protection (Amendment) Law of 2015 (L.175(I)/2015), which provided for additional maternity leave in the event of multiple births. The Strategic Plan on Equality between Women and Men 2014-2017 had achieved positive outcomes in terms of the participation of women in decision-making positions in public and political life.

9. In the sphere of health, the Ministry of Health provided equal opportunities for the health care of all citizens, irrespective of socioeconomic status, and had developed programmes to reach vulnerable groups. For example, human papillomavirus vaccination was being provided free of charge for girls aged 13 and 14 years, through school health services. Asylum seekers and beneficiaries of international protection had been entitled to reduced-fee access to the public health system since 2013, while special provisions had introduced free health-care services for all pregnant women and children belonging to vulnerable groups, such as undocumented migrants.

10. The right to education was granted to everyone in Cyprus without distinction, and the Ministry of Education and Culture placed great emphasis on ensuring equal access for all children. Systematic efforts had been undertaken to make the structural changes needed to improve quality, while a three-year strategic plan for the period 2015-2017 aimed to ensure the provision of learning opportunities to all. The educational system in prisons had been upgraded in accordance with European rules and recommendations, bringing prison education into line with the adult education provided in the outside world. In 2015-2016, half of the prison population had attended educational programmes, including distance learning courses offered by private universities.

11. **The Chair** said that the Committee was gratified to note the importance that Cyprus attached to upholding and implementing the Covenant as a critical element of its laws, policies and practices.

12. **Mr. Abashidze** (Country Rapporteur) said that the Committee recognized the difficulties presented by the division of the country, which had meant that the Government was not in a position to ensure the enjoyment of human rights across the whole of its territory.

13. In respect of the domestic legal order, the State party in its replies to the list of issues had provided no new information but had referred back to its replies to the list of issues in connection with the fourth and fifth periodic reports; as a result, the Committee still required some clarification regarding the domestic legal status of the rights enshrined in the

Covenant. Recalling certain provisions set forth in the common core document, he said that he would like to know how the provisions of the Covenant were incorporated into the municipal law of Cyprus, and whether the rights contained in the Covenant were self-executing provisions, and if not, whether steps had been taken to harmonize them with the municipal law. He would also be interested to learn of any cases in which Covenant rights were invoked before, or applied by, domestic courts.

14. The Office of the Commissioner for Administration and Human Rights (Ombudsman) held category B status and was not in full compliance with the Paris Principles, owing to the persistence of doubts over the absence of a clear selection process for its members, the absence of explicit legal provisions on the functions of the Commissioner, and the adequacy of the funding allocated to the Office. Accordingly, he would be grateful for any information regarding steps taken by the Government to allay those doubts and to bring the activity of the Commissioner into line with the Paris Principles with a view to obtaining category A status.

15. Several amendments to the Refugee Law (L.6(I)/2000, as amended), had been adopted in recent years, and the asylum service was the first-instance decision-making body under the governance of the Ministry of Interior. In that context, the Committee had been advised that asylum seekers had no access to legal aid at the first-instance level, and it would therefore appreciate information on the measures taken to provide free legal aid to a wide range of individuals, especially disadvantaged and marginalized persons.

16. Although a number of antidiscrimination laws were enforced, the procedure for regular review of discriminatory laws was still lacking. Information would therefore be welcome on possible steps to increase the application of those antidiscrimination laws in courts.

17. In respect of non-discrimination under article 2 of the Covenant, asylum seekers were only granted access to employment six months after submitting an asylum application, and were only allowed to work in certain sectors, typically at low rates of pay, irrespective of their professional qualifications. They were also excluded from the guaranteed minimum income scheme. He would therefore like to know whether the Government had any plans to guarantee equal access to employment for asylum seekers, or to provide them with access to social assistance programmes, thereby fulfilling its obligations under articles 2, 6 and 11 of the Covenant.

18. Lastly, recalling the negative effects of the economic crisis and the macroeconomic programme, he would be grateful if the delegation could clarify what additional measures the Government had taken, in the form of State programmes, strategies or plans of action, to improve the situation and to implement the Sustainable Development Goals.

19. **Mr. Kedzia**, referring to article 6 of the Covenant, on the right to work, said that successful conclusion of the macroeconomic adjustment programme had led to welcome signs of recovery in the form of positive growth and an improving labour market. However, the extent to which that improvement was the result of measures taken under the adjustment programme, or in fact reflected a general improvement in the economic environment, was unclear. He would therefore be grateful for any information in that regard, as well as for data that might confirm positive trends in 2016, analytical comments that might prove useful for the dissemination of good practices, and disaggregated statistics, if any, on employment and unemployment trends during the previous five years.

20. He expressed appreciation for the State party's efforts to address youth unemployment and precarious employment through a multifaceted approach that included flexible measures, tailored to the needs of specific groups, ranging from the promotion of youth entrepreneurship to subsidies for the recruitment of unemployed persons. In that sense, the State party should give up-to-date information on youth employment and its

evolution under the influence of the adopted programmes and policies, as well as on the percentage of individuals working in precarious employment conditions, differences between youth employment in rural and urban areas, and whether the delegation considered the recruitment of 5,000 individuals under subsidy schemes, by the end of 2013, to be a satisfactory outcome in view of the overall context.

21. The Committee would like to learn more about the assessment of the project on "Actions for Reducing the Gender Pay Gap" and the measures taken to ensure the balanced participation of women and men in decision-making positions in public and political life. It would also welcome more information on the representation of women in business and the Government. Paragraph 79 of the replies to the list of issues, which stated that no violations of equal pay legislation had been witnessed, required further clarification in light of the data provided on the gender pay gap (a slight decrease to 15.4 per cent). He wished to know the estimated contribution of the informal economy to the gross domestic product and gross national product, as well as the percentage of the workforce involved in the informal economy. It would be helpful if the State party could elaborate on the measures taken to protect the labour rights of workers in the informal economy.

22. More information would be appreciated on the main findings of labour inspections with regard to the provision of just and favourable conditions of work, including fair remuneration and equal opportunities. With reference to paragraph 16 of the list of issues, the Committee also wished to know more about the findings of labour inspections of the working conditions of migrant workers, the situation of undocumented migrant workers and the measures taken to protect them from discrimination and labour exploitation, including the implementation of the Aliens and Immigration Law (Amendment) (L.100(I)/2012), and the protection of the rights of migrant workers who were not nationals of the European Union in farming and domestic settings. In addition, it was unclear whether migrant workers had access to judicial protection in the framework of the complaint procedure and how their situation, in that respect, compared to that of non-migrant workers.

23. With reference to paragraphs 72 and 73 of the State party's replies to the list of issues, and taking into account the fact that industrial relations were based on a voluntary system, he wished to know why there had been a decline in the proportion of employees covered by collective agreements and whether the latter had been replaced by another means. Given the limited legislation on industrial relations, he would like to know how the right to just and favourable conditions of work was guaranteed, including for non-unionized workers.

24. After inquiring whether the freeze on pensions under the social security fund would be waived from 2017 in the light of the economic recovery and whether informal workers had access to social security, including the pension system, he said that the State party should provide more extensive information on the guaranteed minimum income scheme in its next periodic report. In particular, he wished to know to what extent the social impact assessment undertaken as part of introducing the scheme had been human rights-based and guided by the principles enshrined in the Covenant. How many people benefited from the scheme, and did the calculation methodology guarantee the right to an adequate standard of living? Lastly, he inquired whether expectations related to the scheme had so far been met in terms of impacting on the State budget, tailoring support to needs and reducing poverty and social inequalities.

The meeting was suspended at 3.50 p.m. and resumed at 4.10 p.m.

25. **Ms. Koursoumba** (Cyprus) said that the Constitution, which took precedence over all other domestic legislation, began with a bill of rights. The Covenant, in turn, took precedence over all domestic law, and any decision or legislation that was found to contravene the Covenant was declared illegal. Since ratification of the Covenant in 1969, a

number of laws had been enacted in order to implement some of its specific provisions, for example on the right to fair wages. The Covenant was rarely invoked in court because the Constitution, with its bill of rights, usually provided sufficient grounds for issuing judgments. The functioning of the Office of the Ombudsman, an independent national human rights institution, did not fully comply with the Paris Principles; the Office was unable to elect its own staff, for example. Unlike all other government departments and independent authorities, it had not been granted a budget increase in recent years, but its budget should be raised once the financial crisis had passed. The competences of the Ombudsman were established by law, and the Government could decide to extend those competences through the introduction of specific provisions. The Committee would be provided with an English translation of the relevant legislation shortly.

26. With regard to legal aid for asylum seekers, progress had been made in 2016 with the establishment of a new administrative court which could investigate the substance of decisions on asylum. Legal aid was provided in such cases. Asylum seekers also received legal aid if they wished to lodge an appeal with the Supreme Court.

27. **Ms. Andreou** (Cyprus) said that the State party tried to provide appropriate reception conditions for asylum seekers, so long as they complied with the relevant requirements. Financial aid had partly been replaced by material aid, including vouchers for food and clothing that could be redeemed at providers throughout the island and reimbursement for electricity and other expenses. The sectors in which asylum seekers could be employed were determined according to labour market needs and were limited, in order to prevent abuse of the asylum system. Those granted asylum could subsequently apply to work in any sector of the economy. With regard to the impact of the economic crisis, there was now a positive outlook for the economy and thus for the welfare of the Cypriot people. The State party was proud to have exited the macroeconomic adjustment programme without the need for a successor arrangement. Structural reforms had helped to boost the economy and growth had reached its highest level in seven years in 2015. The business sector was showing resilience and the tourism sector was performing better than expected. Confidence in the banking sector had gradually recovered and the capital restrictions imposed in 2013 had been fully removed in April 2015. Some further measures needed to be taken to safeguard stability and sustainable growth, including steps to address the high levels of household and corporate debt. The guaranteed minimum income scheme, which had been designed in collaboration with the International Labour Organization (ILO), was an important step towards a better welfare system. In terms of poverty and social exclusion, many encouraging trends had been noted.

28. The Government was undertaking a major reform of the welfare system because benefits had previously been too fragmented, poorly targeted and vulnerable to abuse. Moreover, the system had given people little incentive to rejoin the labour market, which was its ultimate aim.

29. In the interests of comprehensive governance, a single social welfare administration service had been established under the Ministry of Labour, Welfare and Social Insurance. A national registry of beneficiaries and a reliable verification and control system had also been created.

30. At the heart of the reform was the guaranteed minimum income scheme, which would eventually replace the public assistance scheme. The guaranteed minimum income was a top-up allowance enabling eligible households to meet their basic needs.

31. The income was provided to, among others, a group of persons who had not been receiving any income support benefit in the past, namely the working poor. While some benefits, such as student grants, were still provided outside the scheme, efforts were being made to centralize all available data.

32. The purpose of having clear eligibility criteria and of cross-checking information with third-party sources under the scheme was to ensure that resources were allocated to those most in need. Rejected applicants had the possibility of appeal.

33. Despite the fact that certain eligibility criteria had been relaxed, the introduction of the scheme had led to a significant fall in the number of beneficiaries, from 61,500 families prior to the reform to 25,508 in March 2016. The decrease could be attributed to a lower than expected number of applications from retirees and to a relatively high rejection rate of 63 per cent, largely owing to assets and deposits that exceeded established thresholds.

34. Of the heads of household receiving the income, 27 per cent were unemployed, 16 per cent were working poor, 21 per cent were pensioners and 36 per cent were inactive on account of disability, domestic care responsibilities or other reasons.

35. The new scheme provided much stronger mechanisms for labour market reintegration. To qualify for the income, persons had to be registered with the public employment services and to look for a job if they were unemployed, or better-paid work if they belonged to the working poor. Once registered, recipients could not turn down a job offer without acceptable justification.

36. The scheme also established a framework for social intervention and for the provision of social care, thanks to which recipients benefited from a contribution towards the cost of home, institutional, respite and day care.

37. The implementation of the scheme, including its fiscal impact, was monitored through the preparation of quarterly costing updates and through beneficiary profile analysis. An assessment report on several aspects of the scheme would be prepared as soon as the transfer of beneficiaries under the public assistance scheme had been completed.

38. In Cyprus, the informal economy was considered illegal and thus did not exist as such. Inspections were carried out to ensure that undeclared workers formalized their employment and paid social security contributions, which were compulsory.

39. The project on "Actions for Reducing the Gender Pay Gap", which had ended in December 2015, had led to more effective control of the implementation of equality laws and had involved offering incentives to businesses to encourage the adoption of good practices and awareness-raising on pay equality among employers and workers. Under the project, steps had also been taken to combat employment segregation and stereotypes. The gender gap in employment had fallen from 14 percentage points in 2009 to 7.7 in 2015. Perhaps most significantly, the gap was smallest among persons aged 15 to 24 years.

40. **Ms. Bras Gomes** asked to what extent the Government had been able to restore the level of social protection afforded prior to the introduction of austerity measures during the period under review. She invited the delegation to comment on the negative appraisal of the guaranteed minimum income scheme by the European Foundation for the Improvement of Living and Working Conditions and asked what support, if any, was given to persons who did not meet the eligibility criteria for the income but who had been covered under the public assistance scheme that it had replaced.

41. **Mr. Kedzia** said that he would like to hear about some of the challenges faced in the implementation of the guaranteed minimum income scheme. As the scheme had been in place for a relatively short time, the information could perhaps be provided in the State party's next periodic report.

42. **Mr. Abashidze** asked why, under the new detention policy, persons who had been detained pursuant to a deportation order and had subsequently applied for asylum were not released immediately and said that additional steps should be taken to prevent unjustified deprivation of liberty.

43. He would welcome information on disability benefits and on the implementation of the Act on the Recruitment of Persons with Disabilities in the Wider Public Sector. The delegation should explain how sectoral minimum wages were calculated and why so few persons were covered by such a wage. It should also provide details of compensation for overtime work and of paid sick leave arrangements in various sectors. Noting that self-employed women were not entitled to paid maternity leave, he asked why the Mother's Allowance and the universal cash benefit scheme to support families with children had been abolished.

44. **Mr. Abdel-Moneim** asked how the fulfilment of economic, social and cultural rights was monitored in the Sovereign Base Areas of Akrotiri and Dhekelia, and to what extent the State party's economic partners took into account General Assembly resolutions on island States.

45. **The Chair** said that the status and justiciability of the Covenant rights had not yet been fully clarified, despite the fact that Cyprus had submitted numerous reports to the Committee, whose members, therefore, still found themselves asking elementary questions. It was not sufficient merely to state that the Constitution accorded supremacy to the Covenant. The Committee required judicial proof of the direct application of the Covenant provisions in the domestic or municipal legal order. The fact that the Covenant rights had not been invoked before or applied by domestic courts, or that there was no evidence to that effect, suggested that there was a problem. He hoped that comprehensive answers would be provided in the State party's next periodic report, so as to allay the concerns of Committee members.

46. **Ms. Koursoumba** (Cyprus) said that the Covenant rights were justiciable in that violations of them were actionable in court under specific laws enacted to give effect to the Covenant. As always, the Committee's concluding observations would be conveyed to the Government and disseminated as appropriate. It should be recalled, however, that the judiciary was independent and could not be instructed how to act.

47. **Ms. Andreou** (Cyprus) said that, while the guaranteed minimum income scheme had been the subject of a negative evaluation, it had also been praised by many bodies, including ILO, which had presented it as a model to be followed in other countries. The fall in the number of persons receiving benefits since the introduction of the scheme was indicative of the fact that the public assistance scheme that had preceded it had been vulnerable to abuse. The scheme was being constantly developed, and any gaps or weaknesses would be addressed as and when they appeared.

48. Minimum monthly wages were applicable to certain sectors of the labour market only. The collective bargaining system, which was flexible and fair, had traditionally played a leading role in the regulation of wages, which could be renegotiated whenever necessary. Cyprus attached great importance to social dialogue and, accordingly, had ratified the ILO Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

49. **Ms. Georgiadou** (Cyprus) said that asylum seekers were eligible for legal aid at all stages of the asylum process, but that the authorities had not deemed it necessary to provide legal aid for filling out the application, given that the form was quite simple. The policy to detain asylum seekers had been in place since 2014. When third-country nationals submitted an application for international protection once in detention pending deportation, they were not immediately released but the deportation order was suspended. The asylum services were then informed and an accelerated procedure was launched, leading to a decision within 30 days. The procedure was in line with European standards. The policy on the length of contracts for domestic workers had been relaxed, extending contracts from four to six years. The minimum monthly salary in that field was 460 euros.

50. **Ms. Demetriou** (Cyprus) said that the struggle against discrimination was a government priority, and a comprehensive anti-discrimination framework was in place that included a number of articles of the Constitution. Furthermore, a discrimination dimension had been introduced in the definition of some criminal offences, and hate speech and incitement to hatred were penalized. The Attorney-General had stressed that discrimination was an aggravating circumstance of offences, and the police received training on the investigation of racially motivated crimes. Relevant data were available on the police's website. Same-sex couples enjoyed the same rights as heterosexual couples under the Marriage Act.

51. **Ms. Andreou** (Cyprus) said that the pension system had been reformed to raise the minimum retirement age and introduce a penalty for early retirement, among other changes designed to make the system more viable. The freeze on pensions was temporary and would be lifted. All gainfully employed persons were required to contribute to the pension system, even if they worked in the informal market. The level of social security benefits exceeded European standards.

52. **Ms. Ravenberg**, pointing out that the definition of marital property continued to discriminate against women, asked what was being done to ensure the broadest possible protection of families and to protect women in case of separation. Regarding domestic violence, she asked what steps were being taken to reduce the incidence of domestic violence, what the number and quality of shelters for victims were, what the impact of the national action plan on preventing and handling family violence 2010-2013 had been, and whether a successor plan had been adopted. She wished to know what the State party's policy was with regard to human trafficking, whether there was a mechanism to identify victims and refer them to assistance services, what remedies were available to victims, why the conviction rate was so low, and what the results of the Combating of Trafficking and the Exploitation of Human Beings and the Protection of Victims Law had been. Noting the State party's claim that there were no homeless persons in the country, she requested further information about the methodology used in the census. Lastly, she enquired about the measures in place to ensure that everyone enjoyed the highest attainable standard of mental and physical health and to address the lack of training of health-care professionals and inadequate sexual and reproductive health services.

53. **Mr. Kerdoun** said that, despite the State party's well-developed education system, problems subsisted for Turkish-Cypriot and Roma students and students with disabilities. Accordingly, he asked how the State party intended to facilitate the access of Turkish-Cypriot university students to European exchange programmes and to offset the shortage of Turkish-speaking teachers. He urged the State party to step up its efforts to remove the economic and cultural barriers to education for girls, especially those from minority groups. He also asked how the State party planned to resolve the problems arising from the fact that the national strategy for Roma integration did not cover the zones of educational priority, meaning that the numerous Roma who lived there could not obtain instruction in their mother tongue. He wished to know how the State party addressed the special education needs of students with disabilities. He invited the delegation to comment on complaints that history textbooks were one-sided and omitted the contribution of certain ethnic or national groups and on plans to engage in a review of the textbooks.

The meeting rose at 5.55 p.m.